

Appl. No. : 10/634,213
Filed : August 5, 2003

AMENDMENTS TO THE DRAWINGS

Please replace the forty-six sheets (46) of drawings previously submitted with the forty-six sheets (46) of drawings enclosed herewith.

SUMMARY OF INTERVIEW

Attendees, Date and Type of Interview

A telephonic interview was conducted and attended by Examiner Glenn K. Dawson and Attorney Walter S. Wu on Tuesday, August 7, 2007.

Exhibits and/or Demonstrations

None.

Identification of Claim Discussed

Claim 5 was discussed.

Identification of Prior Art Discussed

None.

Proposed Amendments

Deletion of the phrase in Claim 5 reciting “,but not so sharp as to significantly damage a scleral wall of Schlemm’s canal.”

Principal Arguments and Other Matters

Examiner Dawson stated the specification does not provide a proper antecedent basis for the claimed subject matter.

Results of Interview

Examiner Dawson agreed that there is proper antecedent basis in the specification for the limitation reciting “cutting edge of the trocar to be sharp enough to cut through the wall of Schlemm’s canal” but not for the limitation reciting “but not sharp enough to significantly damage a scleral wall of the canal.” Examiner Dawson agreed to allow Claim 5 with the proposed amendment.

REMARKS

The present Amendment is responsive to the Examiner's Office Action dated June 25, 2007. Applicants appreciate the Examiner's indication of allowability of Claims 5-9, 11, 12, 27, 28, 37, and 53-60 and for the telephonic interview that the Examiner provided on Tuesday, August 7, 2007. The rejected claims have been canceled without prejudice or disclaimer. Applicants have also added Claims 61-73 for consideration.

Specification

The Examiner objected to the specification as failing to provide proper antecedent basis for the claimed subject matter. Applicants have amended Claim 5 and canceled Claim 12 to delete the claim limitation reciting "but not sharp enough to significantly damage a scleral wall of the canal" and thereby have mooted the Examiner's objection under 37 C.F.R. § 1.75(d)(1). Applicants, however, have not acquiesced to the objection and reserve the right to later pursue the subject matter canceled from Claim 5.

Drawings

Applicants are submitting herewith a full set of formal drawings in forty-six (46) sheets to replace the originally filed drawings. At least some of these replacement drawings are cleaner versions of (e.g., without photocopying blemishes) and/or formalized versions of the originally filed drawings.

No new matter has been introduced. Accordingly, entry of these replacement drawings is respectfully requested.

Claim Amendments

In a telephonic interview with the Examiner on Tuesday, August 7, 2007, the Examiner indicated the allowability of Claim 5 if Claim 5 were amended to delete the limitation "but not sharp enough to significantly damage a scleral wall of the canal." In reliance upon the Examiner's indication of allowability, this phrase has been deleted from Claim 5. A similar change was made to Claim 54. No new matter has been added.

In reliance upon the Examiner's indication of allowability of Claims 5-9, 11, 27, 28, 37, and 53-60, Applicants have canceled Claims 12, 15-26, 29-32, 35, 36, 38, 39 and 52 without prejudice.

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In addition, Applicants have corrected the claim dependency of allowed Claim 11 from canceled Claim 10 to Claim 5 and have made a few additional amendments to the allowed claims to improve their readability. The subject matter of canceled Claim 10 was moved to Claim 5 in response to the previous Office Action. Additionally, Claim 60 was amended to replace “cutting edge” for “cutting portion”. No new matter has been added.

Accordingly, Claims 5-9, 11, 27, 28, 37, and 53-60 are pending for consideration. In accordance with the Examiner’s comments, Applicants believe that the present amendments have placed this application in a condition of allowance.

New Claims

By this Amendment, Applicant has added new claims 61-73. New Independent Claim 61 recites a delivery instrument for comprising a trocar, and new independent Claim 67 recites a method involving *inter alia* use of a trocar when implanting multiple implants. The applied art fails to disclose the instrument and the method recited by these claims. Accordingly, Applicant respectfully submits that Claims 61 and 66, as well as their respective claims, are allowable as presented.

Information Disclosure Statements

Supplemental Information Disclosure Statement Filed March 30, 2007

The Examiner’s consideration of the Supplemental Information Disclosure Statement, submitted on March 30, 2007, and considered by the Examiner on June 19, 2007 is gratefully acknowledged.

Applicants would however like to point out that on sheet five (5) of the PTO/SB/08 Equivalent form, it appears that the Examiner has inadvertently missed adding his initials just below the arrowhead next to cite no. 145. Accordingly, the Examiner is respectfully requested to initial the subject PTO/SB/08 Equivalent at the identified location on sheet five (5), and to return a copy of this sheet in the next communication to Applicants’ attorney.

Supplemental Information Disclosure Statement Filed Herewith

Applicants are submitting herewith another Supplemental Information Disclosure Statement. The Examiner's consideration of this Information Disclosure Statement is respectfully requested.

No Disclaimers or Disavowals

Although the present communication may include alterations to the application or claims, or characterizations of claim scope or referenced art, Applicants are not conceding in this application that previously pending claims are not patentable over the cited references. Rather, any alterations or characterizations are being made to facilitate expeditious prosecution of this application. Applicants reserve the right to pursue at a later date any previously pending or other broader or narrower claims that capture any subject matter supported by the present disclosure, including subject matter found to be specifically disclaimed herein or by any prior prosecution. Accordingly, reviewers of this or any parent, child or related prosecution history shall not reasonably infer that Applicants have made any disclaimers or disavowals of any subject matter supported by the present application.

Conclusion

Applicants respectfully submit that the claims are in condition for allowance in view of the above remarks. Any remarks in support of patentability of one claim, however, should not be imputed to any other claim, even if similar terminology is used. Additionally, any remarks referring to only a portion of a claim should not be understood to base patentability on that portion; rather, patentability must rest on each claim taken as a whole. Applicants respectfully traverse each of the Examiner's rejections and each of the Examiner's assertions regarding what the prior art shows or teaches, even if not expressly discussed herein. Although amendments have been made, no acquiescence or estoppel is or should be implied thereby. Rather, the amendments are made only to expedite prosecution of the present application, and without prejudice to presentation or assertion, in the future, of claims on the subject matter affected thereby.

Applicants have made a good faith effort to respond to the outstanding Office Action. Nevertheless, if any undeveloped issues remain or if any issues require clarification, the

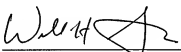
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Examiner is cordially invited to contact Applicants' attorney, at the telephone number below, to resolve any such issues promptly. Also, please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: Dec 21, 2007

By: 
William H. Shreve
Registration No. 35,678
Attorney of Record
Customer No. 20,995
(949) 760-0404

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